

APPEAL NO. 040272
FILED MARCH 29, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A consolidated contested case hearing was held on January 20, 2004. In (Docket No. 1), the hearing officer determined that: (1) the compensable injury of (date of injury for Docket No. 1), includes the right elbow injury after (date of injury for Docket No. 2); and (2) the respondent (claimant) had disability due to the compensable injury of (date of injury for Docket No. 1), beginning May 7, 2002, and continuing through the date of the hearing. In (Docket No. 2), the hearing officer determined that: (1) the claimant sustained a compensable injury on (date of injury for Docket No. 2); (2) appellant 2 (carrier 2) is not relieved from liability under Section 409.002, because the claimant timely notified his employer of an injury in accordance with Section 409.001; and (3) the claimant did not have disability due to the compensable injury of (date of injury for Docket No. 2). Appellant 1 (carrier 1) appeals the hearing officer's disability determination in Docket No. 1, on sufficiency of the evidence grounds. Carrier 2 appeals the hearing officer's injury and notice determinations in Docket No. 2, on sufficiency of the evidence grounds. No responses were filed. The hearing officer's extent-of-injury determination in Docket No. 1 and disability determination in Docket No. 2 were not appealed and have become final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in making the complained-of determinations. The determinations involved questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer is affirmed.

The true corporate name of insurance carrier 1 is **AMERICAN SAFETY CASUALTY INSURANCE** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

The true corporate name of insurance carrier 2 is **LUMBERMENS UNDERWRITING ALLIANCE** and the name and address of its registered agent for service of process is

**DEBRA S. MATHEWS-BUDET
12200 FORD ROAD, SUITE 344
DALLAS, TEXAS 75234-7265.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge